

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF TEXAS

RONALD E. NEWTON,

• • • • •

Plaintiff,

§ 85

versus

CIVIL ACTION NO. 1:13-CV-510

LATASHA JOSEPH, *et al.*,

§§

Defendants.

8

**MEMORANDUM ORDER OVERRULING OBJECTIONS AND ADOPTING THE
MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION**

Plaintiff, Ronald E. Newton, an inmate confined at the Mark Stiles Unit with the Texas Department of Criminal Justice, Correctional Institutions Division, proceeding *pro se* and *in forma pauperis*, filed this civil rights action pursuant to 42 U.S.C. § 1983 against defendant Latasha Joseph.¹

The court referred this matter to the Honorable Keith Giblin, United States Magistrate Judge, at Beaumont, Texas, for consideration pursuant to applicable laws and orders of this court. The Magistrate Judge recommends plaintiff's motion for declaratory judgment be denied.

The court has received and considered the Report and Recommendations of United States Magistrate Judge filed pursuant to such referral, along with the record, and pleadings. Plaintiff filed objections to the Magistrate Judge's Report and Recommendations. This requires a *de novo* review of the objections in relation to the pleadings and the applicable law. *See* FED. R. CIV. P. 72(b).

¹ Plaintiff's claims against defendants Pille, Barrow, Apperson, Gorsuch, Wallace and Massie were dismissed by Partial Judgment on March 23, 2015.

After careful review of plaintiff's objections, the court finds the objections lacking in merit. As outlined by the Magistrate Judge, a declaratory judgment will not serve any useful purpose in clarifying and settling legal relations at issue. The Fifth Circuit has held that such searches at issue may be proper under certain circumstances. *Elliot v. Lynn*, 38 F.3d 188, 191 (5th Cir. 1994) (visual body cavity searches of prisoners) (citing *Bell v. Wolfish*, 441 U.S. 520, 558, 99 S.Ct. 1861, 60 L.Ed.2d 477 (1970)); *Letcher v. Turner*, 968 F.2d 508, 510 (5th Cir. 1992) (per curiam) (strip searches of male inmates in the presence of female employees). Plaintiff, therefore, has not shown a substantial likelihood of success on the merits for any facial attack of the search methods used in the present case.

ORDER

Accordingly, the objections of the plaintiff are **OVERRULED**. The findings of fact and conclusions of law of the Magistrate Judge are correct, and the report of the Magistrate Judge is **ADOPTED**.

SIGNED at Beaumont, Texas, this 23rd day of September, 2015.



MARCIA A. CRONE
UNITED STATES DISTRICT JUDGE